



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF D-F-D-M-

DATE: OCT. 16, 2018

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a financial engineer, seeks second preference immigrant classification as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). After a petitioner has established eligibility for EB-2 classification, U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion, grant a national interest waiver if the petitioner demonstrates: (1) that the foreign national's proposed endeavor has both substantial merit and national importance; (2) that the foreign national is well positioned to advance the proposed endeavor; and (3) that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016).

The Director of the Texas Service Center denied the Form I-140, Immigrant Petition for Alien Worker, finding that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that he had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest.

The Petitioner appealed the matter to us, and we dismissed the appeal.¹ The matter is now before us on combined motions to reopen and reconsider. For the reasons discussed below, we will deny the motions.

I. LAW

A motion to reconsider is based on an incorrect application of law or policy, and a motion to reopen is based on documentary evidence of new facts. The requirements of a motion to reconsider are located at 8 C.F.R. § 103.5(a)(3), and the requirements of a motion to reopen are located at 8 C.F.R. § 103.5(a)(2). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

¹ *See Matter of D-F-D-M*, ID# 1037887 (AAO Mar. 16, 2018).

II. ANALYSIS

The Petitioner intends to work as a consultant offering financial engineering services to clients. In response to the Director's request for evidence, he stated that he had recently begun working as a financial consultant for [REDACTED] and he described several projects for which he expects to provide financial engineering consulting services. He explained that these projects involved developing a financial restructuring plan for [REDACTED] (a Brazilian aircraft manufacturer) to attract investors and begin U.S. operations; financial planning for the development of a medical unit for [REDACTED] (a pharmaceutical research company); a financial restructuring plan for [REDACTED] to develop three new units providing full-service preventative medical care; developing a financial plan for [REDACTED] and conducting financial research on the production and distribution costs for a new assembly plant for [REDACTED] (a Brazilian poultry equipment manufacturer). In our prior decision, we determined that the Petitioner's proposed endeavor, which offers economic benefits to his clients through financial engineering services, has substantial merit, but that he had not demonstrated that his proposed endeavor is of national importance.² Accordingly, he did not meet the first prong of the *Dhanasar* framework.

A. Motion to Reconsider

On motion, that Petitioner argues that our findings are an incorrect application of *Dhanasar*'s first prong. He contends that his "work is specifically in projects that will create new jobs in the United States" and that our conclusion that the record did not contain sufficient evidence to demonstrate that his proposed endeavor is of "national importance is clearly erroneous under *Dhanasar*." In *Dhanasar*, we noted that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." We also stated that "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance." *Id.* at 890. The Petitioner asserts that the aforementioned statement shows that "[t]he creation of new jobs is clearly in the 'national interest' as defined by *Dhanasar*."

The Petitioner's motion focuses on proposed job creation resulting from various consulting projects he will undertake on behalf of [REDACTED]. However, he has not shown that the wider economic effects he is claiming are implications of his specific proposed endeavor to provide financial engineering services for this company's clients. In determining national importance, we focus on the "the specific endeavor that the foreign national proposes to undertake." *See Dhanasar*, 26 I&N Dec. at 889. The Petitioner asserts that the national importance of his endeavor is evident from the scale of the job-creating projects in which he plays a role. But he has not demonstrated that the economic

² We found "that the proposed endeavor in this case would not sufficiently extend beyond the Petitioner's clients to impact the fields of infrastructure, health care delivery, aviation manufacturing, or low income housing more broadly than a single plant, clinic, or project." Furthermore, we stated that he had not shown that "his work would have broader implications for the field of financial engineering."

implications of these larger projects would be attributable to his own role as a financial engineering consultant to an extent that his proposed work holds national importance.

With respect to the [REDACTED] airplane manufacturing project³, the Petitioner states: “although the manufacturing plant may be in one state, the manufacturing plant draws on hundreds of suppliers from around the United States, leading to economic benefits around the country.”⁴ In addition to the [REDACTED] project, the Petitioner indicates that he will offer financial engineering services to multiple other clients’ projects. He does not provide sufficient information and evidence regarding his specific plans for each undertaking, or explain how his time will be divided among them. Furthermore, while the record includes a “Statemet [sic] of Economic Results” and cash flow projections based on a \$500,000.00 investment in [REDACTED]⁵, the Petitioner has not shown how these metrics demonstrate that his endeavor will offer substantial economic benefits to any particular region in the United States. Despite the Petitioner’s assertion that his proposed work involves “creating jobs all around the country,” the record does not include sufficient evidence regarding any projected U.S. job creation attributable to his financial engineering work. The record does not show that benefits to the regional or national economy resulting from the Petitioner’s specific work for [REDACTED] and his other listed consulting projects would reach the level of “substantial positive economic effects” contemplated by *Dhanasar*. *Id.* at 890.

The Petitioner has not met the requirements for a motion to reconsider as he has not demonstrated that we erred in our previous analysis based on the record before us on appeal. Further, the motion to reconsider does establish that our previous findings were based on an incorrect application of the law, regulation, or USCIS policy.

B. Motion to Reopen

In support of the motion to reopen, the Petitioner presents a letter from [REDACTED], president of [REDACTED] discussing his company’s need for the Petitioner to work on a new consulting project involving [REDACTED] states: “For the [REDACTED] project, we will employ three employees. . . . The project is already in process and our contract with [REDACTED] runs for the next six months, so we need to employ the services of [the Petitioner] now.”⁶ While [REDACTED] indicates that the Petitioner “has been involved in the finance engineering structure because of his experience

³ While the Petitioner argues on motion that his proposed work on the [REDACTED] project is of national importance, his request for reconsideration does not specifically explain how our findings relating to [REDACTED] were based on an incorrect application of law or policy.

⁴ In support of the national importance of his proposed work with [REDACTED] the Petitioner previously submitted information discussing the role of aerospace manufacturing in “fostering regional and national economic prosperity.” He also provided excerpts from testimony from a hearing of the U.S. Department of Transportation stating that aviation manufacturing is a “critical sector of our nation’s economy.” We note, however, that the record does not include evidence from [REDACTED] indicating that the company intends to open and operate an airplane manufacturing plant in the United States.

⁵ This documentation describes a “[m]anufacturing site in *Brazil* in newer and better facilities, with room enough, ready to ramp up production” (emphasis added), but it does not discuss [REDACTED] plans for a U.S.-based aircraft manufacturing plant.

⁶ The Petitioner’s motion includes information about [REDACTED] (founded in 1991) business opportunities, corporate structure, manufacturing capacity, research and development, products, sales, and marketing.

in health-related projects” and that [REDACTED] is projecting \$220 million of revenues in 2022, the record does not include evidence from [REDACTED] explaining the significance of the Petitioner’s prospective role as a financial engineer on this project, or demonstrating that his work has significant potential to employ U.S. workers or offers other substantial positive economic effects for the nation.

The Petitioner also submits letters of support from three additional prospective clients and information about their business operations. For example, [REDACTED] asserts that he is “currently in the process of planning for and starting a [REDACTED] Florida. This new clinic is projected to create 5 to 8 new professional jobs and \$500,000 investment in healthcare area.” [REDACTED] notes that he relies on “the services of [the Petitioner] as a consultant Financial Engineer to develop a business plan and financial projections.” In addition, [REDACTED] a firm that invests in the energy sector, states that “energy-related fields are extremely complex and rely upon complex financial modeling and forecasting from experienced financial engineers like [the Petitioner.]” Finally, [REDACTED] president of [REDACTED], a knife and cutlery manufacturer, explains that his company is “embarking on an expansion project in the USA for which we would like to contract [the Petitioner’s] services as a consultant in financial engineering.” [REDACTED] further indicates that his company needs the Petitioner “to implement a new, complex business operation model to handle the novel e-commerce subscription platform.”

Although the Petitioner’s documentation reflects his intentions to provide a valuable service to prospective clients, he has not offered sufficient evidence to demonstrate that his proposed endeavor is of national importance. To satisfy the national importance requirement, the Petitioner must demonstrate the “potential prospective impact” of his work. The Petitioner’s motion, however, does not include sufficient information and evidence to establish that his proposed work as a consultant has implications beyond [REDACTED] and its potential clients at a level adequate to establish the national importance of his endeavor.⁷ For instance, the record does not sufficiently demonstrate how his future work as a consultant stands to affect the health care, energy, pharmaceutical, cutlery manufacturing, nutritional supplement, risk management, poultry equipment, aviation manufacturing, or low income housing industries. Nor does the record show, for instance, that the specific work the Petitioner proposes to undertake has wider implications in financial engineering field or for the U.S. economy. As the Petitioner has not established that his specific endeavor’s prospective impact supports a finding of national importance, he has not met the first prong of the *Dhanasar* framework.

III. CONCLUSION

The Petitioner’s motion does not show that our previous decision was based on an incorrect application of law or policy and does not overcome the grounds underlying our previous decision. As the Petitioner has not met the requisite three prongs set forth in the *Dhanasar* analytical framework, we

⁷ In *Dhanasar*, we determined that the petitioner’s teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893.

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find that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion.

ORDER: The motion to reconsider is denied.

FURTHER ORDER: The motion to reopen is denied.

Cite as *Matter of D-F-D-M-*, ID# 1641711 (AAO Oct. 16, 2018)